

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

In re: LYNDEL TOPPIN, : Chapter 13
Debtor. :
: Case No. 18-13098-MDC

LYNDEL TOPPIN, :
Movant :
v. : Adv. Proc. No. 18-00137-MDC
: :
JEWELL WILLIAMS, SHERIFF :
OF THE CITY OF PHILADELPHIA and :
ABDELDAYEM HASSAN a/k/a :
ABDELDYEM HASSAN, :
Respondents :
: :
:

**DESIGNATION OF RECORD ON APPEAL AND
STATEMENT OF ISSUES TO BE PRESENTED PURSUANT TO FRBP 8009(a)**

Pursuant to Federal Rule of Bankruptcy Procedure 8009(a), Appellant, Lyndel Toppin hereby submits this designation of the record on appeal and statement of issues to be presented in connection with the appeal from the Order of the Bankruptcy Court granting Sheriff's Office Motion for Summary Judgment with respect to the Debtor's request for damages for emotional distress and granting Sheriff's Offices Motion for Directed Verdict (Adv. Docket No. 164), as follows:

DESIGNATION OF RECORD ON APPEAL

<u>Description of Document</u>	<u>Filing Date</u>	<u>Document No.</u>
Voluntary Petition, Schedules and Statements	5/8/18	Bk # 1
BNC Certificate of Mailing - Voluntary Petition	5/12/18	Bk # 6
Complaint	6/11/18	Bk # 14
Motion to Approve Debtors Motion for Appointment of Next Friend	7/2/18	Bk # 15
Order entered Granting Motion to Approve Next Friend. Barrington Whyte shall serve as Next Friend to permit him to testify on behalf of debtor, Lyndel Toppin.	7/10/18	Bk # 22
Order entered Granting Application to Employ PREDRAG FILIPOVIC, Esq. as Special Counsel.	7/26/2019	Bk # 88

<u>Description of Document</u>	<u>Filing Date</u>	<u>Document No.</u>
Transcript regarding Hearing Held on 8/21/2020 EMERGENCY MOTION FOR EXPEDITED CONSIDERATION OF PLAINTIFFS MOTION TO DISMISS ALL CLAIMS FOR RELIEF AGAINST DEFENDANT ABDELDAYEM HASSAN A/K/A ABDELDYEM HASSAN FILED BY LYNDEL TOPPIN REPRESENTED BY STEPHEN MATTHEW DUNNE. Transcribed by Writer's Cramp, Inc. 268 pages. The transcript may be viewed at the Bankruptcy Court Clerk's Office.	9/24/2020	BK # 125
Complaint	6/11/2018	Adv Pro # 1
Amended Complaint	6/15/18	Adv Pro # 3
Answer	7/19/18	Adv Pro # 7
Supplemental Authority	9/26/2018	Adv Pro # 22
Second Amended Complaint	10/24/18	Adv Pro # 29
Exhibit A thru K Filed by STEPHEN MATTHEW DUNNE on behalf of Lyndel Toppin	10/24/2018	Adv Pro # 30
Answer to Second Amended Complaint Filed by Jewell Williams.	11/21/2018	Adv Pro # 37
Pre-Trial Order. Pre-Trial Conference scheduled 7/17/2019 at 11:00 AM at nix2 - Courtroom #2.	1/3/2019	Adv Pro # 42
Pre-Trial Scheduling Order. Pre-Trial Hearing scheduled 9/18/2019 at 11:00 AM at nix2 - Courtroom #2	2/14/2019	Adv Pro # 46
Pre-Trial Scheduling Order. Pre-Trial Conference scheduled 3/25/2020 at 11:00 AM at nix2 - Courtroom #2	7/18/2019	Adv Pro # 56
Motion For Summary Judgment Filed by Sheriff, Jewell Williams	12/26/19	Adv Pro # 71
Memorandum in Support of Motion For Summary Judgment Filed by Sheriff, Jewell Williams	12/26/19	Adv Pro # 72
Document in re: <i>Pretrial Disclosures</i> Filed by STEPHEN MATTHEW DUNNE on behalf of Lyndel Toppin	1/17/2020	Adv Pro # 88
Response to Motion for Summary Judgment filed by Defendant Jewell Williams Filed by Lyndel Toppin	2/5/2020	Adv Pro # 105
Brief Reply <i>Brief in Support of Summary Judgment</i> Filed by MEGAN N. HARPER on behalf of Jewell Williams	2/14/2020	Adv Pro # 112

<u>Description of Document</u>	<u>Filing Date</u>	<u>Document No.</u>
Affidavit Re: Sheriffs Efforts to Produce Employee Responsive to the Courts Order Filed by JOSHUA DOMER on behalf of Jewell Williams	3/12/2020	Adv Pro # 122
Supplemental Memorandum in Support of <i>Motion for Summary Judgment</i> Filed by MEGAN N. HARPER on behalf of Jewell Williams	4/6/2020	Adv Pro # 126
Supplemental Memorandum in Opposition to <i>Motion for Summary Judgment</i> Filed by STEPHEN MATTHEW DUNNE on behalf of Lyndel Toppin	4/6/2020	Adv Pro # 127
Order Governing Procedures At Trial Conducted Remotely By Videoconference on July 17,2020 2 10:30 A.M.	6/30/2018	Adv Pro # 128
Trial (related document(s)[1])re-scheduled for 8/21/2020 at 10:30 AM at nix2 - Courtroom #2.	7/14/2020	Adv Pro # 137
Order Governing Procedures at Trial Conducted Remotely by Video Conference .	7/29/2020	Adv Pro # 140
Document in re: <i>Remote Hearing Witness and Exhibit List</i> Filed by MEGAN N. HARPER on behalf of Jewell Williams	8/17/2020	Adv Pro # 147
Document in re: <i>Plaintiff's Remote Witness List</i> Filed by STEPHEN MATTHEW DUNNE on behalf of Lyndel Toppin	8/17/2020	Adv Pro # 148
Evidentiary Trial Held and Concluded	8/24/2020	Adv Pro # 153
Transcript regarding Hearing Held on 8/21/2020 EMERGENCY MOTION FOR EXPEDITED CONSIDERATION OF PLAINTIFFS MOTION TO DISMISS ALL CLAIMS FOR RELIEF AGAINST DEFENDANT ABDELDAYEM HASSAN A/K/A ABDELDYEM HASSAN FILED BY LYNDEL TOPPIN REPRESENTED BY STEPHEN MATTHEW DUNNE. Transcribed by Writer's cramp, Inc 268 pages. The transcript may be viewed at the Bankruptcy Court Clerk's Office.	9/24/2020	Adv Pro # 155
Motion for <i>Directed Verdict</i> Filed by Sheriff of the City of Philadelphia Represented by MEGAN N. HARPER	10/8/2020	Adv Pro # 157
Memorandum in Support of <i>Motion for Directed Verdict</i> Filed by MEGAN N. HARPER on behalf of Sheriff of the City of Philadelphia	10/8/2020	Adv Pro # 158

<u>Description of Document</u>	<u>Filing Date</u>	<u>Document No.</u>
Memorandum in Support of <i>Motion for Directed Verdict</i> Filed by MEGAN N. HARPER on behalf of Sheriff of the City of Philadelphia	10/8/2020	Adv Pro # 158
Response to Generic Motion filed by Defendant Sheriff of the City of Philadelphia Filed by Lyndel Toppin	10/29/2020	Adv Pro # 161
Supplemental Statement <i>Notice of Supplemental Authority</i> Filed by STEPHEN MATTHEW DUNNE on behalf of Lyndel Toppin	11/6/2020	Adv Pro # 162
Hearing Held on Motion for Directed Verdict Filed by Sheriff of the City of Philadelphia Represented by MEGAN N. HARPER - HELD UNDER ADVISEMENT	11/10/2020	Adv Pro # 163
Order entered Granting in part, Denying in part Summary Judgment Motion (Related Doc # [157]) . It is GRANTED with respect to the Debtor's request for damages for emotional distress and DENIED on all other grounds asserted. 3. The Directed Verdict Motion is GRANTED. 3. The Debtor's requested relief for sanctions against the Sheriff's Office pursuant to Section 362 (k) of the Bankruptcy Code is DENIED.	11/9/2021	Adv Pro # 164
Memorandum Order. An Order consistent with this Memorandum will be entered.	11/9/2021	Adv Pro # 165
Deposition of Barrington Whyte	12/12/2019	See Attached.
Sheriff's Responses to Requests for Admission		See Attached.
Revised Trial Stipulations		See Attached.
Plaintiff's Remote Witness List		See Attached.
Plaintiff's Exhibit List: P1 to P60		See Attached.
Plaintiff's Bates Stamped Trial Exhibit Binder with Exhibits labeled P1 through P60		See Attached.
Defendant's Exhibits: D1 to D30		See Attached.

STATEMENT OF ISSUES PRESENTED

1. Whether the bankruptcy court erred in finding that evidence at trial failed to establish any actual damages suffered by Plaintiff as a result of Defendants' violation of the automatic stay provided by 11 U.S.C. § 362(a)?
2. Whether the bankruptcy court erred in holding that a deaf and mute Plaintiff failed to prove emotional distress damages he suffered as a result of Defendants' violations of the automatic stay provided by 11 U.S.C. § 362(a) when Plaintiff is unable to testify on his own behalf due to his disability, and evidence by caretaker/nephew testifying at length to personal observations of Plaintiff indicated that a reasonable person would suffer significant emotional harm?
3. Whether the bankruptcy court erred in finding that the evidence of actual damage Plaintiff suffered as a result of Defendant's conduct, produced by Plaintiff in opposition to Defendant's Motion for Summary Judgment, failed to raise a genuine triable issue of fact pursuant to 11 U.S.C. § 362(k)(1)?
4. Whether the bankruptcy court was estopped from finding that there is no triable issue of fact on the issue of actual damages, and granting partial summary judgment in favor of Defendant on that issue, by virtue of its decision to conduct a trial on all issues?
5. Whether the bankruptcy court erred in failing to design court procedures in a manner that excluded Plaintiff, Lyndel Toppin from court's view when he was present during the entire testimony of his next of friend, Barryington Whyte, thereby depriving Plaintiff, Lyndel Toppin from emoting a non-verbal response that impacts Plaintiff's credibility as a witness?

Dated: December 2, 2021

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